

TITLE 1. ADMINISTRATION
STATE BOARD OF ELECTIONS

Final Regulation

REGISTRAR'S NOTICE: The State Board of Elections is claiming an exemption from the Administrative Process Act pursuant to § 2.2-4002 B 8 of the Code of Virginia, which exempts agency action relating to the conduct of elections or eligibility to vote.

Title of Regulation: **1VAC20-60. Election Administration (amending 1VAC20-60-50).**

Statutory Authority: § 24.2-103 of the Code of Virginia.

Effective Date: October 26, 2020.

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Summary:

The amendments provide an alternative secure process for dealing with overfull optical scan ballot containers at the general registrar's office and satellite office locations.

1VAC20-60-50. Overfull optical scan ballot container.

A. If an optical scan reader in use in a registrar's office or a polling place or a central absentee precinct malfunctions because the connected ballot container includes too many ballots, election officials may open the ballot container and empty the ballots with the following safeguards:

1. The optical scan ballot container shall be opened in plain sight of any authorized party representatives or other observers and, once the ballots have been deposited into an auxiliary ballot container, both ballot containers shall remain in plain sight in the polling place.
2. Any such auxiliary ballot container used shall meet the requirements of § 24.2-623 of the Code of Virginia.
3. In a general, special, or dual-party primary election, a minimum of two officers of election, not representing the same political party, shall execute such a transfer of ballots. In a single-party primary election, the transfer shall be conducted by a minimum of two officers of election who may represent the same party.

B. In the event that an optical scan reader in a general registrar's office or satellite location malfunctions because the connected ballot container includes too many ballots or there is no storage for ballots, election officials may follow either the process outlined in subsection A of this section or the following alternative procedure:

1. The general registrar, assistant registrars, or officers of election may remove the overflow ballots from the connected ballot container and place them in a secure container.
2. That container will be sealed or locked by the general registrar, assistant registrars, or officers of election with their signatures, the date, and a record of the number of ballots that have been secured in that container.
3. The sealed or locked container shall be immediately transported to the general registrar's office by either the officers of election, the general registrar, or an assistant general registrar.

4. At the general registrar's office, the container shall be stored in a secure, locked location that is away from the access or view of the public and that is accessible only to the general registrar or assistant registrars.

V.A.R. Doc. No. R21-6480; Filed October 22, 2020, 10:39 a.m.